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December 28, 2012

BY HAND

Jeff S. Jordan
Supervisory Attorney
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 6686

Dear Mr. Jordan:

I write on behalf of the Committee to Elect Judge Bob Vance (the "State Committee") in response to the complaint in the above-referenced matter, in which Bill Armistead (the "Complainant") alleges violations of the Federal Election Campaign Act (the "Act"). Because the complaint states no facts that allege a violation of the Act, the Commission should dismiss it.

Factual Background

The State Committee is the authorized committee under Alabama state law of Judge Robert S. Vance, Jr., a circuit court judge in Jefferson County, Alabama. Judge Vance was the Democratic candidate for Chief Justice of the Alabama Supreme Court in the 2012 election cycle. The State Committee was registered under the Alabama Fair Campaign Practices Act (codified at Section 17, Chapter 5 of the Alabama Code). Its purpose was to support Mr. Vance's candidacy for state office.

Complainant is the chairman of the Alabama Republican Party. On November 1, 2012, Complainant initiated this action for purported violations of the Act. Specifically, the Complaint alleges that, on June 18, 2008 – more than four years ago – the State Committee made a \$2,000 contribution to the Obama Victory Fund, a joint fundraising committee supporting President Obama's 2008 presidential campaign and the Democratic National Committee. Because the

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contribution exceeded \$1,000, the complaint says, the State Committee became a federal political committee, and hence failed to file as required by the Act. The Complaint makes no other allegation against the State Committee.

Legal Analysis

The Complaint fails entirely to present a reason to believe that Respondents should have registered as a federal political committee, and it should accordingly be dismissed.

The Supreme Court has construed the term "political committee" to encompass only organizations whose *major purpose* is the nomination or election of federal candidates. See *Buckley v. Valeo*, 424 U.S. 1, 79 (1976); *Fed. Elec. Comm'n v. Mass. Citizens for Life, Inc.*, 479 U.S. 238, 262 (1986). The Commission has likewise long applied the Court's "major purpose test" to determine whether an organization constitutes a political committee under the Act. See *Political Committee Status: Supplemental Explanation and Justification*, 72 Fed. Reg. 5595, 5597, 5601 (Feb. 7, 2007). The Commission makes that determination through a case-by-case analysis of organizational conduct. See *id.*

Complainant's allegations fall far short of establishing that the State Committee was required to register as a federal political committee under the major purpose test. The Commission's case-by-case analyses have yielded precisely the opposite result. For example, in MUR 6113, involving Kirby Hollingsworth for State Representative, the General Counsel urged that a \$20,000 expenditure on behalf of a federal campaign was not enough, by itself, for a state candidate committee to meet the major purpose test. See MUR 6113, First General Counsel's Report at 7 (2009). Similarly, in the case of NDN's 2004 issue advocacy activities, the Commission found that, where a single advertisement among many may have expressly advocated a federal candidate's election or defeat, the major purpose test was not clearly met, and the organization had not qualified as a political committee. MURs 5755 and 5440, Factual and Legal Analysis at 4 (Nov. 19, 2007).

The State Committee's major purpose is manifestly to support Judge Vance's campaign for state office. Complainant makes no allegation and provides no evidence to suggest otherwise. The State Committee's purpose is evidenced not only by its name and its activities, as disclosed under the Alabama Fair Campaign Practices Act, but also by its prescribed functions under state law. See Ala. Code 1975 § 17-5-7.

Conclusion

The Complaint against the Respondents is entirely without merit. Complainant misstates the law of political committee status, urging what would be a vast federalization of state and local